

Order

**Michigan Supreme Court
Lansing, Michigan**

May 24, 2006

Clifford W. Taylor,
Chief Justice

ADM File No. 2006-07

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

Proposed Amendment of
Rule 7.211 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 7.211(B) of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated in underlining and deletions are indicated in strikeover.]

Rule 7.211 Motions in Court of Appeals

(A) [Unchanged.]

(B) Answer.

(1) [Unchanged.]

(2) Subject to subrule (3), the ~~The~~ answer must be filed within

(a)-(c) [Unchanged.]

(d) 14 days after the motion is served on the other parties, for a motion for reconsideration of an opinion or an order, to stay proceedings in the trial court, to strike a full or partial pleading on appeal, to file an amicus brief, to hold an appeal in abeyance, or to reinstate an appeal after dismissal under MCR 7.217(D);

(e) [Unchanged.]

If a motion for immediate consideration has been filed, ~~the answer must be filed within the time stated above, or as directed by the Court of Appeals.~~ all answers to all affected motions must be filed within 7 days if the motion for immediate consideration was served by mail, or within such time as the Court of Appeals directs. See subrule (C)(6).

- (3) In its discretion, the Court may dispose of the following motions before the answer period has expired: motion to extend time to order or file transcripts, to extend time to file a brief or other appellate pleading, to substitute one attorney for another, for oral argument when the right to oral argument was not otherwise preserved as described in MCR 7.212, or for an out-of-state attorney to appear and practice in Michigan.

~~(3)~~(4) [Renumbered but otherwise unchanged.]

(C)-(E) [Unchanged]

Staff Comment: The May 24, 2006, proposed amendments of the rule reflect the recommendations of Michigan Court of Appeals. The proposed amendments would extend the time to answer certain motions from 7 to 14 days, and would establish a new category of motions that can be decided in less than 7 days without delaying submission until the answer period has expired. The Court of Appeals believes that the resulting categories are distinguishable by the perceived likelihood that opposing counsel will seek to answer the motion, by the complexity of the answer that would likely be drafted, and by the Court of Appeals interest in quickly resolving such motions.

The proposed amendments also would clarify that answers to motions for immediate consideration and any motions affected by such a motion are to be filed within 7 days if the motion for immediate consideration was served by mail or within such time as the Court directs in light of the circumstances of the case.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201.

Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by September 1, 2006, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2006-07. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 24, 2006

Corbin R. Davis
Clerk